Calendar No. 963

82D CONGRESS, 1st Session | SENATE | REPORT No. 1012

CERTAIN DISBURSING OFFICERS OF THE ARMY OF THE UNITED STATES, AND OTHER CLAIMANTS

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OCT 29 1951
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OCTOBER 16 (legislative day, OCTOBER 1), 1951.—Ordered to be printed

Mr. MCCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1709]

The Committee on the Judiciary, to which was referred the bill (S. 1709) for the relief of certain disbursing officers of the Army of the United States, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 9, insert in the blank space "June 15, 1951".

PURPOSE

The purpose of the proposed legislation is to authorize the Secretary of the Treasury to reimburse or to credit the accounts of certain disbursing officers of the Army of the United States for erroneous payments made by them, in good faith and without fraud or collusion on their part, and to reimburse certain other claimants for services rendered or costs incurred in the interest of the United States and at the behest of Army authorities, but without the prior approval of higher authority necessary to authorize payment therefor in the usual course.

STATEMENT

The proposed amendment is formal in nature, to perfect the form of the bill.

This bill was introduced by the chairman of the Senate Committee on Armed Services at the request of the Secretary of the Army, with

the recommendation of the latter that the proposed legislation receive favorable consideration.

Detailed information concerning each of the several claims included in this bill is contained in a letter from the Secretary of the Army to the chairman of the Senate Committee on Armed Services, dated June 15, 1951, which follows:

DEPARTMENT OF THE ARMY,
Washington, D. C., June 15, 1951.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR SENATOR RUSSELL: There is enclosed herewith draft of a bill for the relief of certain disbursing officers of the Army of the United States, and for other purposes, which the Department of the Army recommends be enacted into law. The submission of this legislation is in accordance with procedures approved by the Secretary of Defense.

The following information is submitted concerning each of the items of the enclosed draft of bill:

Section 2: The items in this section represent errors which occurred in making payments to certain individuals and which resulted in disallowances by the Comptroller General of the United States in the accounts of the disbursing officers of the Army concerned. After analyzing each of these items, the Department of the Army is of the view that the number of such disallowances and the total amount represented thereby are negligible when measured against total payments made by such disbursing officers of hundreds of millions of dollars to a great numbers of payees. In each case, every effort has been made to effect collection of the amount involved, but without success, and as a matter of justice to the certifying officers and accountable disbursing officers who made the erroneous certifications and payments, the Department of the Army believes that the accounts involved should be cleared. A detailed explanation of each of the items in this section is set forth below:

Col. Henry M. Denning, Finance Corps (now retired) $133.77. While disbursing at the Finance Office, United States Army, Boston, Mass., Colonel Denning made overpayments to former Civilian Conservation Corps enrollees as follows:

Voucher No. 4960, August 1937, Peter A. Gasparelli	$4.77
Voucher No. 792, October 1937, Albion Blanchard	5.00
Voucher No. 2129, October 1937, Harvey Forsberg	6.00
Voucher No. 2505, April 1938, William Letourneau	30.00
Voucher No. 283, January 1939, Peter Lombardi	86.00
Voucher No. 284, February 1939, William J. Dowd	2.00

Errors in computation by payroll clerks in the office of Colonel Denning were responsible for the overpayments to Peter A. Gasparelli, Albion Blanchard, and William Letourneau. Harvey Forsberg was shown on the company payroll for September 1937 as an assistant leader instead of a member due to error in certification by Second Lt. Irving Morley, Coast Artillery Reserve, who was discharged from his commission before the disallowances were made by the General Accounting Office.

Peter Lombardi upon transfer from the Two Thousand One Hundred and Thirty-first Company, Civilian Conservation Corps to Fort Devens, Mass., was shown on the payroll as having been paid to include August 31, 1938 in the Two Thousand One Hundred and Thirty-first Company, Civilian Conservation Corps, Worland, Wyo. Therefore, payment for the 3 months' period of September, October, and November 1938 was made by Colonel Denning on subject voucher. In January 1939, the General Accounting Office discovered that the enrollee had previously been paid for these 3 months on voucher No. 1419, December 1938 accounts of Col. H. R. Priest, Finance Corps. The certifying officer, Capt. Charles E. Kelley (now inactive Reserve), was held responsible for the duplicate payment by a board of officers.

William J. Dowd who enrolled in the Civilian Conservation Corps on January 4, 1939 and was discharged January 13, 1939 and who was absent without official leave from January 6, 1939, to date of discharge on January 13, 1939, was erroneously paid $2 regardless of the fact that he was indebted to the Government in the sum of $4.82 because of such absence in a nonpay status. Efforts to effect collection from the above enrollees or certifying officers were unsuccessful.

Col. C. K. McAlister, Finance Corps, $39.79. While disbursing at Fort Douglas, Utah, Colonel McAlister (then captain) made an overpayment of $30 on voucher No. 6, July 1938 in his Civilian Conservation Corps accounts to a former Civilian Conservation Corps enrollee, Clorus Edwards, for allowances and allotment which had previously been paid on voucher No. 164, March 1938 accounts of Col. M. F. W. Oliver. A board of officers held that First Lt. Edgar T. White, now separated from the service, was responsible for the duplicate payment but all efforts to collect from Lieutenant White were unsuccessful. Also, overpayment in the amount of $9.79 was made to First Lt. William R. MacPherson, chaplain, Reserve, on voucher No. 3191, February 1939, Civilian Conservation Corps accounts of Colonel McAlister (then major) at the rate of $0.035 a mile for official travel performed by private conveyance instead of $0.03 a mile as authorized by Army regulations. Chaplain MacPherson claims that the travel performed was directed in competent orders at $0.035 per mile by the Civilian Conservation Corps, Boise District Headquarters, Boise, Idaho. He has refused to make reimbursement. Lieutenant MacPherson resigned from the service on December 4, 1939, before the overpayment was discovered and all action taken with view to collection has been unsuccessful.

Col. Frank Richards, Finance Corps (now retired), $34.69. While disbursing at the Finance Office, United States Army, Fort McPherson, Ga., Colonel Richards (then lieutenant colonel) overpaid Maj. Otto G. Trunk (now deceased) the sum of $16.87 on voucher No. 3733, April 1939, for base and longevity pay. Major Trunk received temporary appointment to the grade of lieutenant colonel with rank from April 1, 1939. According to the Official Army Register of January 1, 1940, date of acceptance was April 10, 1939, from which date pay accrued. The former officer claimed, and was paid, base and longevity pay as a lieutenant colonel for the period April 1 to 30, 1939, whereas he was entitled to pay as a major for the period April 1 to 9, 1939, and as a lieutenant colonel from April 10, 1939, through April 30, 1939, resulting in an overpayment of $16.87. When the final pay account of the deceased officer was settled there were not sufficient moneys due him to fully offset the amount of disallowance by the Comptroller General of the United States leaving a balance due of $16.87. Also, Colonel Richards has made continuous efforts to effect collection of $17.82 from Col. Fred C. Wallace, a former officer, for excess cost in the shipment of household goods from Auburn, Ala. to Arlington, Va. when weight of shipment was held to have been in excess of authorized weight allowance for a colonel of the Army. Colonel Wallace refused to make refundment and stated that there was no actual excess weight in his property since the moving company loaded a part of another officer's effects in the van with his household goods and charged the weight to his effects. On March 28, 1941, the Secretary of War approved the initiation of legislative relief for Colonel Richards (then major) for the sum of $17.82 since the many extenuating circumstances surrounding the case left great doubt as to the advisability of expending further Government funds in an effort to effect reimbursement for the small sum of money involved. Payment of this account was made by Colonel Richards on voucher No. 2553, July 1939, in favor of A. C. White Transfer & Storage Co. in the amount of $249. By computation, using authorized weight allowance, payment should have been $231.18.

Col. H. R. Cole, Corps of Engineers $18.72. Notice of exception of $56.16 was taken by the General Accounting Office on payroll voucher No. 438, in the September 1946 accounts of Colonel Cole for payments to civilian hourly employees for a holiday when no work was performed. All possible collection action has been taken with the result that all but $18.72, the overpayment of $6.24 to each of three employees, has been reimbursed to the Government. The certifying officer, Mr. J. J. Betty, against whom the original exceptions were made, died on February 3, 1949. Since it is believed that any further cost of collection efforts would be prohibitive in view of the small amount of individual indebtedness, the United States Civil Service Commission has been advised of said indetedness in the event the individual concerned is ever reemployed by the Government. All payments appear to be free from fraud and collusion and made in good faith by the disbursing officer on the certification by the certifying officer, therefore, it is recommended that credit be allowed in the accounts of Colonel Cole.

Section 3. Maj. Paul M. Birkeland, Artillery, $500. During the course of business in November 1945 in exchanging currency for both returned Yugoslav prisoners of war and Americans arriving in Belgrade, Major Birkeland exchanged four 1,000 allied occupation mark notes, total value of $400. He also came into possession of one 1,000 allied occupation mark note valued at $100 through a transfer of accounts from Lt. Col. Caleb F. Gates, M. I. D. In December 1945,

Major Birkeland returned to the Central Disbursing Office all allied occupation currency on hand, including the five 1,000-mark notes. The central disbursing officer, Lt. Col. M. P. Patteson, Finance Corps, symbol No. 212-379, refused to accept the mark notes in question, declaring that they were no longer negotiable. Upon returning to his office Major Birkeland discovered a bulletin which had been received in the last mail, confirming the fact that 1,000-mark notes should not be accepted by United States disbursing officers. Inasmuch as the notes were not negotiable there existed a loss in Major Birkeland's accounts which he refunded from personal funds in the amount of $500. In view of the fact that a thorough investigation failed to reveal any evidence of neglect or fraud it is recommended that Major Birkeland be reimbursed for the amount supplied by him from his personal funds.

First Lt. Maurice A. Berg, Air Force, $108. On March 29, 1943, Lieutenant Berg while acting as class B agent officer for Lt. Col. George Stetekluh, Finance Corps, symbol No. 20-857, Washington, D. C. was entrusted, for the purpose of making payments to troops, with the sum of $1,500. Throughout the course of the trip, Lieutenant Berg had made necessary payments to members of the crew. While en route to England, the airplane on which Lieutenant Berg was copilot, was attacked by ground fire off the coast of France. As the gasoline supply was low, an order was given by the pilot to throw everything overboard preparatory to abandoning the plane. Lieutenant Berg could not leave his position as copilot, but called to the crew not to throw out the satchel in which the Government funds and vouchers covering amounts already expended were kept. However, the satchel had already been thrown overboard. The Government funds and vouchers totaling $1,500 were never recovered. Lieutenant Berg was subsequently relieved of accountability for this loss of public funds under existing law. Upon crash-landing in England, additional payments of per diem were necessary to pay the expenses of the crew. Since it was impracticable for Lieutenant Berg to obtain an additional entrustment from an Army disbursing officer, expenditures totaling $108 were made from his personal funds. In view of the fact that a thorough investigation failed to reveal any evidence of neglect or wrongful action on the part of Lieutenant Berg, it is recommended that Lieutenant Berg be reimbursed for the amount supplied by him from personal funds.

Second Lt. Charles Nuckols, Jr., $48.75. On November 30, 1944, Lieutenant Nuckols while acting as class A agent-officer for Lt. Col. Julius S. Eberstein, Finance Corps went to the Seventy-fifth Infantry Division finance office to receive the payroll funds for Company K, Two hundred and ninety-first Regiment. Lieutenant Nuckols signed receipts for the funds and, after counting all the money but the loose change, he returned by truck to the company area. After paying the men, Lieutenant Nuckols discovered a shortage in the amount of £12 or $48.75, United States currency. The next day Lieutenant Nuckols reported the loss to the division finance officer. A thorough check of the payroll and funds failed to disclose the reason for the shortage. The amount of $48.75 was deducted from Lieutenant Nuckol's September 1945 pay. In view of the fact that a thorough investigation failed to reveal any negligence or fraud, it is recommended that Lieutenant Nuckols be reimbursed for the amount taken from his pay.

First Lt. Austin E. Prichard, Air Force, $121. On April 5, 1943, the sum of $1,000 in cash and $500 in Government checks was entrusted to Lieutenant Pritchard who had been appointed class "B" agent officer at Morrison Field, West Palm Beach, Fla., for Lt. Col. George Stetekluh, Finance Corps, Washington, D. C., for the purpose of making disbursements in connection with the carrying out of a special overseas mission. After Lieutenant Pritchard arrived in England, he paid his crew per diem allowances. The vouchers covering such payments totaled $879, leaving a balance in his possession of $121 in cash and $500 in checks. On several occasions, Lieutenant Pritchard attempted to make settlement at a finance office but each time he was unable to accomplish his purpose because of some technical defect in the papers. He turned over the vouchers and checks to his squadron adjutant for safekeeping. As the finance officer would not permit cash to be left in his safe, he carried the remaining cash, $121, in his money belt. On October 14, 1943, Lieutenant Pritchard was shot down behind the German lines. Prior to being captured, and in order to prevent the money from falling into the hands of the Germans, he buried it in a woods near Stuttgart. It has not been recovered. The checks and vouchers were subsequently turned in to the finance office and Lieutenant Pritchard's account was credited with the sum of $1,379, leaving a balance in the sum of $121. When Lieutenant Pritchard was subsequently returned to military control the sum of $121 was deducted from his pay which deduction is reflected in the July 1945 accounts of Capt. C. B. Fink,

Finance Corps. In view of the fact that a thorough investigation failed to reveal any evidence of neglect, it is recommended that Lieutenant Pritchard be reimbursed for the amount deducted from his pay.

First Lt. Irwin D. Bingham, Air Force, $330. On February 22, 1943, the sum of $1,000 in cash was entrusted to Lieutenant Bingham who had been appointed class B agent officer at Morrison Field, West Palm Beach, Fla. for Lt. Col. George Stetekluh, Finance Corps, Washington, D. C. for the purpose of making disbursements in connection with the carrying out of a special overseas mission. Lieutenant Bingham requested large bills but this request was refused. The bulk of the small bills was too great for Lieutenant Bingham's money belt, so he had to carry $500 in his wallet on his person. Five days later the overseas flight started but the airplane was forced to return to Morrison Field because of motor trouble. The money was then placed in a safe at Morrison Field. On March 8, 1943, in anticipation of immediate departure, Lieutenant Bingham withdrew the funds from the safe and 24 hours later he discovered that his wallet had been rifled and that $330 were missing. An investigation failed to disclose any information regarding the loss of the money and the police at West Palm Beach believed it was the work of pickpockets who knew that the senior member of an airplane crew oftentimes carried large sums of money on his person. A few days later a second attempt to make the overseas flight was started and failed and Lieutenant Bingham and his crew returned to Homestead, Fla., and while there Lieutenant Bingham paid per diem to his crew members. On or about June 3, 1943 an additional sum of $500 was entrusted to Lieutenant Bingham making him accountable for $1,500. On September 13, 1943 Lieutenant Bingham turned in $425 to Lt. D. L. Rush, Finance Corps, which amount was taken up in the June 1944 accounts of Maj. E. M. Simmons, Finance Corps. The amount of $425 included a reimbursement by Lieutenant Bingham of the sum of $330 which had been stolen from his wallet. Lieutenant Bingham was credited with vouchers totaling the sum of $1,103.50, covering per diem payments made by him, which vouchers were processed throughout the June 1944 accounts of Maj. E. M. Simmons, Finance Corps. After this amount was credited to Lieutenant Bingham's accounts they showed an overage of $28.50, which excess must be presumed as coming from his personal funds (other action being taken on this item). In view of the fact that investigation failed to reveal any negligence in the handling of Government funds, it is recommended that Lieutenant Bingham be reimbursed in the amount of $330, the amount supplied by him from personal funds.

First Lt. Charles F. Schwep, Signal Corps, $276. From April 1, 1944 to January 31, 1945, First Lt. Charles F. Schwep, had under his command from 8 to 20 men who were photographers operating with the Chinese armies and the Burma Road engineers, and who were dispersed from Wanting, China, to Sadan, Burma, a distance of 4,000 miles. During said period Lieutenant Schwep acted as liaison officer, assignment officer, chaplain and agent finance officer. In Lieutenant Schwep's position as class A agent officer for Capt. E. J. Boardman, Finance Corps, he often found it impossible to pay his men promptly due to lack of transportation, and during the period from April 1, 1944, to October 31, 1944, he found it necessary to send payroll funds to the individual men by safe-hand or courier together with vouchers to be signed and returned to him. In some cases the vouchers were not returned to Lieutenant Schwep. During the period from April 1, 1944, to October 1944, Lieutenant Schwep kept a record of the outstanding vouchers, but in the latter part of October 1944 the notebook in which this record was kept was in Lieutenant Schwep's musette bag which he left aboard an airplane. The loss was never recovered. Lieutenant Schwep thereupon assumed the outstanding vouchers to be lost. From October 31, 1944, to January 31, 1945 he paid the men personally. Between April 1, 1944, and January 31, 1945, Lieutenant Schwep failed to return signed vouchers to the finance office in the total amount of $276. Lieutenant Schwep reimbursed the Government in the amount of $276 for the lost vouchers on October 9, 1945. In view of the fact that Lieutenant Schwep performed his duties to the fullest extent of his ability under extraordinary circumstances, it is recommended that Lieutenant Schwep be reimbursed for the amount supplied by him from personal funds.

First Lieutenant Henry Fontenot, Ordnance Corps, $100. On September 29, 1945, funds in the amount of $100 were advanced by Capt. O. S. Parker, Finance Corps, in his capacity as class A agent officer for Capt. C. B. Fink, Finance Corps, Washington, D. C. to Lieutenant Fontenot for the purpose of making payments to troops. Information of record indicates that partial payments of $10 each were made to 10 enlisted men on board ship while en route to the United States for discharge and were recorded on the pay books of the enlisted men as the

payments were made. The completed pay voucher, together with the enlisted men's records and all information pertaining to the shipment, were entrusted to the sergeant in charge of the group under Lieutenant Fontenot's command. Upon arrival at the separation center, Camp Shelby, Miss., the officers and enlisted men were segregated and the records and pay vouchers pertaining to the enlisted men were given to the sergeant in charge to be turned in to the personnel officer. The pay voucher was subsequently lost. A thorough investigation failed to reveal the whereabouts of the missing pay voucher. Lieutenant Fontenot reimbursed the Government in the amount of $100 in February 1946 to cover the amount of the missing pay voucher. A thorough investigation has disclosed no fraud or negligence on the part of Lieutenant Fontenot and it is recommended that he be reimbursed for the amount supplied by him from personal funds.

Capt. B. D. Grossman, Finance Corps, $50. On August 24, 1945, a loss in the amount of $50 was discovered in the cash accounts of Corp. William C. Mattox, 14150532, bonded cashier for Captain Grossman. An audit of Captain Grossman's accounts did not reveal any illegal or erroneous payments and, considering the facilities available, the funds were duly safeguarded. Captain Grossman has refunded the amount of $50 from his personal funds to clear his accounts of the loss in question. In view of the excessive burden placed on finance officers, due to the demobilization of troops and the lack of sufficient personnel to handle payments, and in view of the fact that reasonable measures were taken to safeguard the funds in question, it is recommended that Captain Grossman be reimbursed for the amount supplied by him from personal funds.

First Lt. Harold B. Cockrell, Infantry, $436. Upon arriving at the Third Replacement Depot, APO 872A, in April 1946, Lieutenant Cockrell was appointed class A agent finance officer for Maj. W. F. Menegus, Finance Corps, and was entrusted with $3,000 in allied military marks for use in exchanging money for troops arriving at and departing from the replacement depot. Four hundred and thirty-six dollars' worth of illegal allied military Austrian schillings were accepted by Lieutenant Cockrell in conversion which should have been withdrawn from circulation by March 15, 1946. At the time of reporting for duty Lieutenant Cockrell was not advised that allied military Austrian schillings could no longer be converted. The resulting shortage in this case was made up by Lieutenant Cockrell from his personal funds, and is not, therefore, reflected as a loss in the accounts. In view of the circumstances surrounding the loss in this case and since investigation failed to reveal any negligence on the part of the officer, it is recommended that Lieutenant Cockrell be reimbursed for the amount supplied by him from his personal funds.

Warrant Officer (jg) Gregory W. Corken, $30.26. On June 18, 1944, a shortage of $30.26 was found to exist in the accounts of Warrant Officer Corken, due to the fact that a bundle of Bank of France notes, supposedly containing 100 notes of 500 francs each, actually contained 97 notes. The shortage of three 500 franc notes was verified by three enlisted assistants in the office of Mr. Corken. The money in question was received by Mr. Corken from the accountable disbursing officer, Maj. E. A. Ganschow, who had received funds from the currency section for France, for use by finance officers during the initial invasion of Europe. The shortage of $30.26 was made up by Warrant Officer Corken from his personal funds and is not, therefore, reflected as a loss in the accounting records. In view of the fact that a thorough investigation failed to reveal any carelessness, negligence, or fraud, on the part of Warrant Officer Corken or his enlisted assistants, it is recommended that he be reimbursed for the amount supplied by him from personal funds.

Capt. Francis S. Chasm, Infantry, $181.36. On February 6, 1947, Captain Chasm was postal officer for the Sixth Infantry Division in Korea. A shortage in the amount of $181.36 in the issue and payment of money orders by enlisted postal clerks was disclosed on that day which amount was determined to have resulted from theft of Government funds by person or persons unknown. Captain Chasm was ordered by his commander to pay this amount to the postal authorities, which he did on June 14, 1947, under protest. Upon his subsequent appeal to the Secretary of the Army, the previous action to hold him liable was disapproved, his appeal was sustained and he was relieved of liability herein in the mentioned amount, by direction of the Assistant Secretary of the Army. It is therefore recommended that Captain Chasm be reimbursed for the amount supplied by him from personal funds.

Section 4: The PG Publishing Co. (publishers of the Pittsburgh Post Gazette), $218.40; the Cleveland Plain Dealer, $206.38; the Indianapolis Star, $260.04; the

Dispatch Printing Co. (publishers of the Columbus Dispatch) $188.16; the Cincinnati Enquirer, $321.30; Washington Times-Herald, $60.90; the Courier-Journal and the Louisville Times Co. (publishers of the Courier-Journal and the Louisville Times), $78.75; the Madison Courier, Madison, Ind., $4.50; the Marion Star, $11.76; the Toledo Blade Co. (publishers of the Toledo Blade), Toledo, Ohio, $50.40; the Columbus Dispatch, $47.88; the Tribune Co. (publishers of the Chicago Tribune), $138.60; Tribune-Star Publishing Co., Inc. (publishers of Terre Haute Tribune), $15.12; the New York Sun, Inc. (publishers of the Sun), $99.63; the LaPorte Printing Co. (publishers of the LaPorte Herald-Argus), $24.32; the Chicago Daily News, Inc. (publishers of the Chicago Daily News), $69.30; the News Journal Co. (publishers of Wilmington News and Journal-Every Evening), $16.80; the Philadelphia Record Co. (publishers of the Philadelphia Record), $63; The Indianapolis News Publishing Co. (publishers of the Indianapolis News), $52.48; the New York Times Co. (publishers of the New York Times), $138.60; the Richwood Publishing Co. (publishers of the Nicholas Republican), $8; Elkins Inter-Mountain Co., Inc. (publishers of the Elkins Inter-Mountain), $8.82; West Virginia Newspaper Publishing Co. (publishers of the Morgantown Post and the Dominion News), $16.80; the Athenaeum, $6.60; Clarksburg Publishing Co. (publishers of Clarksburg Telegram and Clarksburg Exponent), $12.50; the Grant County Press, $9.98; Mineral Daily News-Tribune, $12.60; Advocate-Messenger Co. (publishers of the Advocate Messenger), $2.40; Newspaper Advertising Service, Madison, Wis., $25.20; the Journal Co., Milwaukee, Wis., $46.20; J. Schilling and J. Holton, Baraboo, Wis. (publishers of The Shopper's Guide), $4.95; the Sauk County News, Prairie DuSac, Wis., $5; the Albert Hand Co. (publishers for the Cape May Star and Wave), Cape May, N. J., $16.30; which amounts are due to several claimants mentioned above for advertising ordered and published for and in the interest of the United States without the prior approval of the Secretary of War, as required by Revised Statutes 3828 (44 U. S. C. 324), and payment for such advertising cannot legally be made. In view of the fact that the advertising was requested by verbal order in the interest of the United States, was accepted in good faith, and the Government derived the benefit therefrom, the Department of the Army recommends that the claim be paid.

Section 5: The township of Montgomery, Harlingen, N. J., $199.31, and the township of Hillsborough, Neshanic, N. J., $136.44. In October 1942, Lt. Col. Reginald A. Ward, military intelligence officer, and Benjamin Seligman, Government employee of the Belle Mead General Depot, Somerville, N. J., contacted the officials of the townships of Montgomery and Hillsborough in the State of New Jersey and their attorney, Arthur B. Smith, for the sole purpose of instigating the people of the above-mentioned townships to enact certain ordinances, which were considered necessary in the war effort. All these steps were taken at the time Public Proclamation No. 2 and No. 4 were issued by Headquarters, Eastern Defense Command, First Army, dated September 7, 1942. In furtherance thereof, the townships enacted the ordinances with the express understanding that reimbursement for the costs incurred would be forthcoming from the United States Government. The claimants have already paid the legal fees and publication expenses and are now seeking reimbursement for all costs incurred. Admittedly, the office of the Belle Mead Quartermaster Depot exceeded their authority in promising reimbursement for expenses incurred in the enactment of these ordinances, but it should be emphasized that the acts of the depot authorities and townships officials were in behalf of the United States Government and the United States Government benefited therefrom. The prevailing policy of the War Department at that time was to expect the military authorities at Army installations to spare no effort in the safeguarding of its vital installations and equipment from all possible danger. In view of the above, the Department of the Army recommends that the claim be paid.

When the circumstances surrounding disbursements indicate that reasonable care and attention have been given to the performance of the disbursing duty, and where every effort has been made to recoup to the United States the amounts of erroneous payments, the relief of disbursing officers of technical accountability is considered distinctly to advance the interests of the United States, when viewed from the standpoint of abstract justice to a group of public servants.

The various items covered by this proposed bill have received very careful consideration in the Department of the Army, and the possibility and desirability of instituting suits against the payees has also received attention. Manifestly if such a course were adopted and a resulting collection had, the disbursing officers would be relieved of accountability. However, in view of the small amounts involved in many of the cases and the obvious improbability of realizing any

recovery in others, together with the necessity for the instituting of a large number of individual suits to clear accounts of this character, it is believed that such a course is neither economical nor practicable. Notwithstanding the absence of negligence on the part of the disbursing officers, the impossibility of securing a voluntary refundment or the impracticability of enforcing collection does not operate to relieve the disbursing officers of the technical responsibility with which they are charged under the law and under their bonds, and which, unless their accounts are cleared will result in suits against them to collect the amounts overpaid.

In view of the foregoing, it is recommended that this proposed legislation receive favorable consideration.

The approval of the enactment will entail an expenditure of approximately $4,758.79 from Federal funds, and validation of approximately $226.97 in the accounts of disbursing officers of the Army for disallowances by the Comptroller General of the United States.

The Bureau of the Budget has been consulted and advises that there is no objection to the submission of this proposed legislation for the consideration of the Congress.

Sincerely yours,

FRANK PACE, Jr.,
Secretary of the Army.

Upon review of the circumstances set forth in the foregoing letter by the Secretary of the Army, the committee is of opinion that the requested relief should be granted and therefore recommends favorable consideration of the bill (S. 1709).

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